

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
STATE OF TEXAS,	)	
	)	
Plaintiff,	)	
and	)	Civil Action No. 4:18-cv-03368
	)	Judge EWING WERLEIN, JR.
BAYOU CITY WATERKEEPER,	)	
	)	
Plaintiff-Intervenor,	)	
	)	
v.	)	
	)	
CITY OF HOUSTON, TEXAS,	)	
	)	
Defendant.	)	
_____	)	

**FOURTH JOINT REPORT ON THE PROGRESS  
OF SETTLEMENT NEGOTIATIONS**

Plaintiffs United States and State of Texas (“State”) and Defendant City of Houston, Texas (“City”) submit this Fourth Joint Report on the Progress of Settlement Negotiations as directed by the Court at the conclusion of the February 22, 2019, status conference. The negotiating teams for Plaintiffs and the City hereby report to the Court that they have reached a proposed settlement of the claims alleged in Plaintiffs’ Complaint.<sup>1</sup>

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<sup>1</sup> Counsel for the United States, the State, and the City wish to emphasize to the Court that they and others working with them are serving as negotiators for the respective Parties. Any references in this Fourth Joint Report to the Parties reaching a proposed settlement mean that the negotiating teams have agreed on positions they intend to recommend to the respective Parties’ principals. The final written agreement will be subject to the review and approval of the Mayor of Houston and the City’s governing body and appropriate officials of the United States and the State authorized to approve final settlements. Accordingly, “negotiating teams” is used when reference is made to any party’s proposed settlement position.

### **BRIEF BACKGROUND STATEMENT**

On September 20, 2018, simultaneously with filing the joint Complaint of Plaintiffs, the United States filed an Unopposed Motion to Stay Proceedings to Allow the Parties to Complete Settlement Negotiations (“Stay Motion”) (ECF No. 2). The Stay Motion was supported by the State and the City. On September 24, 2018, the Court entered an Order Staying Litigation Pending Settlement Negotiations (“Stay Order”) (ECF No. 8). The Stay Order directed Plaintiffs and the City to file a joint report on settlement progress every 45 days following entry of the Stay Order. *Id.*

Pursuant to the Stay Order, Plaintiffs and the City submitted to the Court three Joint Reports on the Progress of Settlement Negotiations on November 8, 2018, December 21, 2018, and February 4, 2019. Each Joint Report advised the Court that the negotiating teams continued to make progress in reaching a proposed settlement. On February 22, 2019, the Court conducted a status conference to consider, among other things, the status of settlement negotiations. Plaintiffs and the City advised the Court that they were very close to reaching a proposed settlement, but that the issue of an appropriate civil penalty to be paid by the City remained unresolved.

Subsequent to the recent status conference, the negotiating teams continued negotiations. The negotiating teams have now resolved the civil penalty issue, as well as some other minor issues. Therefore, the negotiating teams have reached a proposed final settlement, which each negotiating team has agreed to recommend to its Party Principal for approval.

### **NEXT STEPS**

The proposed settlement document consists of more than one hundred pages, and there are a number of appendices. The negotiating teams need to finalize the document and the appendices before each negotiating team will be able to initiate its respective approval process.

In addition, the negotiating teams intend to discuss their respective approval processes and the time needed for approval. Accordingly, the negotiating teams will discuss these issues this week and begin their respective approval processes. Plaintiffs and the City will file a further Joint Report within thirty days to inform the Court on the status of the approval process and initiation of the public participation process.

### **CONCLUSION**

Plaintiffs and the City are committed to completing the settlement process as promptly as possible.

Respectfully submitted,

FOR THE UNITED STATES

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ATTORNEYS FOR THE STATE OF TEXAS

**CERTIFICATE OF SERVICE**

I hereby certify that on March 11, 2019, a copy of the foregoing Fourth Joint Report on the Progress of Settlement Negotiations was filed electronically with the Clerk of Court using the CM/ECF system. I also certify that I caused this filing to be served by e-mail and U.S. Mail on the following counsel:

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